procedural bar rules consistently in death penalty cases"); Andrews v. Deland, 943 F.2d 1162, 1190 (10th Cir. 1991), cert. den., 502 U.S. 1110 (1992) (the test for determining the adequacy of a state procedural rule is whether the state courts' "actual application of the particular procedural default rule to all 'similar' claims has been evenhanded 'in the vast majority' of cases").

3. Conclusion

Much of the *amicus* brief is a rehash of arguments made and themes sounded by Calderon in the Petition. The further suggestion that there is a conflict among the Circuit Courts with respect to the determination of the adequacy of a state procedural default rule is, as above shown, without merit. Fields respectfully requests that this Court deny the Petition.

Dated: April 27, 1998

Respectfully Submitted,

CARLSMITH BALL

By: _____

David S. Olson
Attorneys for Respondent
Stevie Lamar Fields

NO. 97-1262

In The

Supreme Court of the United States

October Term, 1997

ARTHUR CALDERON, Petitioner,

v.

STEVIE LAMAR FIELDS, Respondent.

CERTIFICATE OF SERVICE

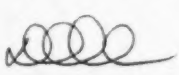
I, David S. Olson, a member of the United States Supreme Court Bar, hereby certify that I served one copy of the **RESPONSE OF RESPONDENT TO BRIEF *AMICUS CURIAE* OF THE CRIMINAL JUSTICE LEGAL FOUNDATION IN SUPPORT OF THE PETITION FOR WRIT OF CERTIORARI** on all parties required to be served.

Service was made on counsel for petitioner by depositing on April 9, 1998, the above-referenced documents in the United States mail, with first-class postage prepaid, addressed as follows:

Carol Frederick Jorstad, Esq.
Deputy Attorney General
300 South Spring Street, 5th Floor
Los Angeles, California 90013
Attorney for Petitioner

Christine M. Murphy
Criminal Justice Legal Foundation
2131 L Street
P.O. Box 1199
Sacramento, California 95812

DATED: April 27, 1998



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OUR REFERENCE NO.
035398-3

April 27, 1998

William K. Suter, Clerk
Supreme Court of the United States
1 First Street N.E.
Washington, D.C. 20543

Re: **Calderon v. Fields**, No. 97-1262

Dear Mr. Suter:

Enclosed for filing please find one original and ten copies of Response of Respondent to Brief *Amicus Curiae* of the Criminal Justice Legal Foundation in Support of the Petition for Writ of Certiorari in the above-referenced matter. Also enclosed is one additional copy for conforming and a self-addressed stamped envelope regarding forwarding of the same.

RECEIVED
APR 30 1998
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Sincerely,

David S. Olson
Counsel for Respondent
Stevie Lamar Fields

DSO:la
Enclosures

6095189.1.035398-3